

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MOEN INCORPORATED,

CASE NO.

Plaintiff,

JUDGE

vs.

GIAGNI ENTERPRISES LLC,
QMI, INC., and
SVG ENTERPRISES LLC

**COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Defendants.

Plaintiff Moen Incorporated files this Complaint for Patent Infringement against Defendants Giagni Enterprises LLC, QMI, Inc., and SVG Enterprises LLC as follows:

THE PARTIES

1. Plaintiff Moen Incorporated (“Moen”) is a corporation organized under the laws of Delaware with its principal place of business at 25300 Al Moen Drive, North Olmsted, Ohio 44070.

2. Moen is the owner by assignment and thereby owns all of the rights and interests in and to United States Patent No. 7,854,401 B2 (“the ‘401 Patent”) entitled “Faucet Wand.”

3. Upon information and belief, Defendant Giagni Enterprises LLC (“Giagni”) is a family-owned limited liability company, duly organized by and existing under the laws of the state of New York. Giagni primarily engages in the distribution and sales of faucets and

accessories and hardware for kitchen and bath, and operates the business out of 550 South Columbus Avenue in Mount Vernon, New York 10550.

4. Upon information and belief, Defendant QMI, Inc. (“QMI”) is a corporation duly organized by and existing under the laws of the state of New York. QMI primarily engages in the distribution and sales of faucets and accessories and hardware for kitchen and bath, and operates the business out of 548 South Columbus Avenue in Mount Vernon, New York 10550.

5. Upon information and belief, Defendant SVG Enterprises LLC (“SVG”) is a family-owned limited liability company, duly organized by and existing under the laws of the state of New York. SVG primarily engages in the distribution and sales of faucets and accessories and hardware for kitchen and bath, and operates the business out of 548 South Columbus Avenue in Mount Vernon, New York 10550.

JURISDICTION AND VENUE

6. This is an action for patent infringement under the patent laws of the United States, Title 35, United States Code.

7. This Court has subject matter jurisdiction under 28 U.S.C. §1338(a).

8. This Court has personal jurisdiction over Giagni, QMI, and SVG (collectively, “Defendants”) because Defendants have conducted, and do conduct, business within the State of Ohio and the Northern District of Ohio. Defendants, either directly or through distributors and retailers or others, ship, distribute, offer for sale, sell, and advertise their products in the United States, the State of Ohio, and within this judicial district. On information and belief, Defendants have offered to sell and sell faucet wands that infringe one or more claims of the ‘401 Patent, including but not limited to faucet wands distributed or sold under the name Abete through Lowe’s retail home improvement stores located in the State of Ohio, including such stores in this

judicial district, with the expectation that these faucet wands will be purchased by consumers in the Northern District of Ohio. On information and belief, these infringing faucet wands have been and continue to be purchased by consumers in the Northern District of Ohio through Lowe's retail home improvement stores.

9. Venue is proper before this Court under 28 U.S.C. §1391(b)(2) and (c) and §1400(b).

CAUSE OF ACTION FOR PATENT INFRINGEMENT

10. Moen hereby realleges and incorporates by reference, as if fully set forth herein, the allegations of paragraphs 1-9, *supra*.

11. The '401 Patent was duly and legally issued by the United States Patent and Trademark Office on December 21, 2010, after full and fair examination. A true and accurate copy of the '401 Patent is attached hereto as Exhibit A.

12. By virtue of its ownership of the '401 Patent, Moen has the right to sue for infringement of the '401 Patent and to recover damages for infringement of the '401 Patent.

13. Moen makes and sells in the United States faucet wands that embody the invention described and claimed in the '401 Patent.

14. Moen is informed and believes, and on that basis alleges, that Defendants have directly infringed the '401 Patent in violation 35 U.S.C. §271(a) by making, using, offering for sale, or selling in the United States, or importing into the United States, the Abete faucet wand that infringes at least claims 1, 2, 4-12, and 14-21 of the '401 Patent, both within and outside this judicial district, without authority to do so.

15. Moen is informed and believes, and on that basis alleges, that Defendants have actively induced infringement of the '401 Patent in violation 35 U.S.C. §271(b) by inducing

others to use or to offer for sale or sell the Abete faucet wand that infringes at least claims 1, 2, 4-12, and 14-21 of the '401 Patent, both within and outside this judicial district, without authority to do so.

16. Upon information and belief, Defendants' infringement has been willful.

17. Upon information and belief, Defendants will continue to infringe and willfully infringe the '401 Patent, causing immediate and irreparable harm to Moen, and Moen will continue to be irreparably harmed by Defendants' infringement unless this Court enjoins and restrains Defendants from continuing its infringement.

18. Upon information and belief, Defendants' infringement has and will continue to deprive Moen of sales, profits, and other related revenue which Moen would have made or would enjoy in the future, and will cause Moen added injury and damage, including loss of sales, profits, and other related revenue in the future, unless Defendants are enjoined and restrained from infringing the '401 Patent.

PRAYER FOR RELIEF

WHEREFORE, Moen prays for the entry of judgment in its favor from this Court as follows:

- a) That United States Patent No. 7,854,401 B2 is valid and enforceable;
- b) That Defendants have directly infringed United States Patent No. 7,854,401 B2;
- c) That Defendants have actively induced infringement of United States Patent No. 7,854,401 B2 by others;
- d) That Defendants' infringement has been willful;
- e) That a permanent injunction be entered against Defendants enjoining each of them, their officers, directors, parent corporation, agents, employees, subsidiaries,

successors, assigns, and all persons acting in privity or in concert with Defendants from infringing or inducing infringement of United States Patent No. 7,854,401 B2;

- f) That Moen be awarded damages adequate to compensate for Defendants' infringement pursuant to 35 U.S.C. §284;
- g) That Moen be awarded prejudgment and post-judgment interest on the damages awarded for Defendants' infringement of the '401 Patent;
- h) That Moen's damages be enhanced pursuant to 35 U.S.C. §284 as a result of Defendants' willful infringement;
- i) That Defendants' infringement has been such as to render this action exceptional, and Moen be awarded reasonable attorney's fees pursuant to 35 U.S.C. §285;
- j) That Moen be awarded such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Moen Incorporated hereby makes demand for a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues of this lawsuit.

Respectfully submitted,

By: /s/ John T. Wiedemann
JOHN T. WIEDEMANN (0065844)
jwiedemann@calfee.com
CHET J. BONNER (0075014)
cbonner@calfee.com
JOHN S. CIPOLLA (0043614)
jcipolla@calfee.com
CALFEE, HALTER & GRISWOLD LLP
1400 KeyBank Center
800 Superior Avenue
Cleveland, OH 44114-2688
Phone: 216-622-8200
Fax: 216-241-0816

Attorneys for Plaintiff Moen Incorporated